IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN
W.P.No.19265 of 2020
and
W.M.P.No. 23855 of 2020

RUBFILA International Ltd.,
rep. By its Manager M.Sudesh ... Petitioner

Vs.

1. The Inspector General of Registration,
Inspector General Office,
No.120, Santhome High Road,
Chennai-600 028.

2. Deputy Inspector General of Registration,
Integrated Complex of Registration
Department, TNAU Nagar,
Rajakampeeram, Y.Othakadai,
Madurai-625 107.

3. The District Registrar,
District Registrar Office,
Palani, No.9B, Periyar Salai,
Palani HO, Palani-624 601.

4. The Sub-Registrar,
Sub-Registrar Office,
Keeranur, Palani. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent pertaining to the proceedings in Na.Ka.No.1383/A3/A1/2020, dated 24.11.2020 received by the petitioner on 10.12.2020 confirming the order of the 4th respondent pertaining to the demand notice dated 31.12.2019 and quash the same.

For Petitioner : Mr.P.Valliappan
for M/s. PV Law Associates

For Respondents : Mr.Yogesh Kannadasan,
Government Advocate for R1 to R4

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed challenging the order passed by the 2nd respondent rejecting the appeal filed by the petitioner under Sec.47-A(5) of the Indian Stamps Act.

2. The grievance of the petitioner is that, the petitioner had presented the sale deed for registration and the same was registered on 12.12.2019, and the sale deed was also returned to the petitioner. Thereafter, by an order dated 31.12.2019 the 4th respondent Sub-Registrar herein had issued a notice directing the petitioner to pay a sum of Rs.45,36,321/- towards deficit stamp duty and also registration charges. Aggrieved with the above said order, the petitioner said to have approached the 2nd respondent herein on 05.02.2020 and pending the same, the petitioner has also approached this court by way of filing Writ Petition in W.P.No. 13910 of 2020, challenging the demand notice dated 31.12.2019 issued by the 4th respondent Sub-Registrar. It was contested by the respondents that, the petitioner has already approached the 2nd respondent by way of an appeal, and cannot approach this Court by way of filing a Writ Petition. This Court disposed of the Writ Petition with a direction to the 2nd respondent to consider the petitioner's appeal and pass suitable orders strictly in accordance with law within a period of four weeks and till then, no recovery shall be made from the petitioner. Thereafter, the impugned order came to be passed confirming the order passed by the 3rd respondent District Registrar. Challenging the same, the present Writ Petition has been filed by the petitioner.

3. The 3rd respondent filed a counter affidavit stating that, even though the sale deed was registered, after registration, it was found that there are certain buildings located in the said properties. Hence, the Assistant Engineer, Public Works Department was requested to ascertain the value of building and based on the report submitted by the Assistant Engineer, Public Works Department, Madurai, the 4th respondent has issued a notice directing the petitioner to pay deficit stamp duty. That apart, the Assistant Inspector General of Registration, Madurai has also conducted a audit and submitted an audit report stating that, the value of the properties mentioned in the said sale deed should have been ascertained on the basis of the value of the adjacent lands. Following the same, the deficit stamp duty has been fixed. Now, challenging the order, the petitioner has filed an appeal and the appellate authority had confirmed the order passed by the 3rd respondent.

4. Mr. P.Valliappan, learned counsel appearing for petitioner would content that, the sale deed was already registered and the document was also returned to the petitioner. Thereafter, the 4th respondent Sub-Registrar has no power to ascertain and fix deficit stamp duty. If at all, the 4th respondent Sub-Registrar has any doubt over the value of the property, he should have referred the matter to the Collector (Stamps) under Sec.47-A of the Act, and only the Collector (Stamps) has power to determine the stamp duty payable on the instrument and fix the deficit stamp duty. Without conducting any enquiry whatsoever, the 4th respondent arbitrarily fixed the market value and asked the petitioner to pay deficit stamp duty. On the appeal filed by the petitioner, the 2nd respondent, without conducting any enquiry, had passed a cryptic and non-speaking order, simply confirming the order passed by the 3rd respondent on total non-application of mind. Hence, it is liable to be set aside.

5. Mr. Yogesh Kannadasan, learned Government Advocate appearing for respondents would submit that, after registering the document, on inspection, it was found that, a superstructure available in the property was not properly valued. Hence, after obtaining valuation report from the Assistant Engineer, Public Works Department, the value of the property has been refixed and for that, the petitioner cannot have any grievance. Now, the appellate authority has also considered the materials and confirmed the order passed by the 3rd respondent.

6. Heard rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate and perused the records.

7. A perusal of the order passed by the 2nd respondent, it could be seen that, the order has been passed without conducting any enquiry and without giving any opportunity to the petitioner. It is the statutory appeal filed under Sec.47-A(5) of the Indian Stamps Act, and the petitioner has also raised various objections including the power of 4th respondent Sub-Registrar fixing the market value and the deficit stamp duty. In these circumstances, the 2nd respondent being, statutory appellate authority ought to have given an opportunity of hearing the petitioner and he is expected to pass orders giving reasons for arriving the conclusion. The impugned order is not only bereft of any reason and it is also passed without giving any opportunity to the petitioner, and the impugned order has been passed in total non-application of mind and violation of principles of natural justice. Hence, it is liable to be set aside. Accordingly, the impugned order passed by the 2nd respondent is set aside and the matter is remanded back to the 2nd respondent and the 2nd respondent is directed to conduct

detail enquiry and pass reasoned order after hearing the petitioner within a period of twelve weeks from the date of receipt of copy of this order. As this court has already granted interim protection from recovering the amount till the order passed by the earlier Writ Petition, the respondents are directed to not to initiate any proceedings for recovery of deficit court fee till the disposal of the appeal pending before the 2nd respondent. Accordingly, this Writ Petition stands allowed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Inspector General of Registration,
   Inspector General Office,
   No.120, Santhome High Road,
   Chennai-600 028.

2. The Deputy Inspector General of Registration,
   Integrated Complex of Registration
   Department, TNAU Nagar,
   Rajakampeeram, Y.Othakadai,
   Madurai-625 107.

3. The District Registrar,
   District Registrar Office,
   Palani, No.9B, Periyar Salai,
   Palani HO, Palani-624 601.

4. The Sub-Registrar,
   Sub-Registrar Office,
   Keeranur, Palani.

+1CC to Ms.P.Valliappan, Advocate SR.No.34118

W.P.No.19265 of 2020

GPL (CO)
B.VC (18/08/2021)